GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Establishment – C.A.F. & C.S. Department – Civil Supplies – Sri K.Rammohan Rao, Deputy Tahsildar (Retired) – Notional Seniority and promotion in the cadre of Assistant Supply Officer and District Supply Officer – Assigned – Orders Issued.

.

CONSUMER AFFAIRS, FOOD & CIVIL SUPPLIES (CS.I-CCS) DEPARTMENT

G.O.Rt.No.21 Dated:13-04-2016

Read the following:

1. G.O.Rt.No.2466 of F&A(CS-II) dept.,dt:06.12.1988
2. CRO, Hyderabad orders No.A1/2610/CRO/85. Dt:14.12.1988
3. R.P. No.3632/1989 of APAT, Hyderabad, dt: 14.12.1988
4. Review petition of R.P.No.3632/1989 APAT, Hyderabad, dt:16.04.1996
5. O.A.No.6107/1996,APAT,Hyderabad, dt: 10.10.1996
6. Admn I.(i)/831/96 of CCS,Hyderabad,dt:31.12.1996
7. Memo.No. 1304/CS_II/2/97-1 of F,CS & CA (CS-II) Dept., dt: 11.04.1997
8. Hon'ble APAT orders, dt: 25.06.1999 O.A.No.6835/97, 6107/96 and 243/97
9. Hon'ble High Court Orders,dt:18.08.1999 in WP.No.17529,17527, 17100 & 13529/99
10. Procgs.of CRO,Hyderabad in Ref.A.I/5179/99,dt: 30.10.1999
11. Orders of Hon'ble High Court, dt: 21.11.2003 in Rev.WP.No.31656 of 2003 in WP.No. 9600 of 2000
12. Orders of Hon'ble High Court,dt:14.10.2004 in CC.No.911 of 2004 & Rev.WP.No.6141 of 4 in WP.No.9600 of 2000
13. Hon'ble Supreme Court of India orders in Civil Appeal No. 752,753 of 2008 with Civil Appeal No. 690/2008, dt: 23.04.2015
14. R/o Sri G. Somi Reddy & others, dt:11.05.2015

&&&

ORDER

Sri G. Somi Reddy, Sri P. Prem Kishore and Sri K.Rammohan Rao, Deputy Tahsildars presently retired from Government Service on attaining the age of superannuation and other some persons were drafted to Chief Rationing Officer's Unit, Hyderabad on deputation at their request during 1976 and 1979 duly maintaining their lien in their parent departments i.e. Agriculture and Co-operation Depts.

Name of the individual	Initial appointment in their parent dept	Date of appointment in their parent dept	Date of promotion to SA cadre in their parent dept	Date of joining as UDC (Sr.Asst) in CRO's Unit on deputation.
Sri G. Somi Reddy	Jr. Asst in Agrl. Dept	04.02.1961	17.01.1968	02.01.1976
Sri P. Prem Kishore	Typist in Registrar of Co-op Socities	11.03.1966	18.10.78	29.11.78
Sri K.Rammohan Rao	LDC in Registrar of Co-op Societies	03.08.1967	10.07.75	12.01.79

2. The above applicants along with other deputationists in CRO's Unit, .Hyderabad have represented for their absorption. The matter has been examined at Govt., level and orders were issued vide reference 1st read above permitting the Chief Rationing Officer, Hyderabad to absorb the deputationists in CRO's Unit, Hyderabad. Accordingly, the CRO, Hyderabad issued orders vide reference 2nd read above absorbing the above individuals along with others in CRO's Unit, Hyderabad subject to certain conditions under Rule 16 of APMS Rules read with 6(c) of AP State and Subordinate Service Rules.

3. The individuals viz., Sri G.Somi Reddy, Sri P.Prem Kishore and Sri K.Rammohan Rao had given option for recruitment by transfer in the cadre of Senior Assistant in CRO's Unit, Hyderabad subject to rule 6(C) of AP State and Subordinate Service Rules as contained in RP No. 568/80 and Rule 16 of AP MS Rules.

4. The above individuals have filed RP No. 3632/89 in the APAT at Hyderabad for setting aside the proceedings of the CRO, Hyderabad. Dt.14.12.1988. The APAT has rejected the RP No. 3632/89 on 22.09.1995. The respondents have filed review petition in the matter in which by order dt. 16.04.1996 was disposed of with a directions to regulate the claim of the petitioners about the seniority according to provision in Rule 27 of AP MS Rules. The applicant and others come under the purview of sub-section (iii) of Section 27 (1) of AP MS Rules and their seniority cannot be reckoned in terms of sub-section (i) of or sub-section (ii) of Rule 27(i) of Rule 27(1) of APMS Rules.

5. The above individuals have filed O.A. No. 6107/96 for retrospective seniority in Senior Assistant cadre and promotion to higher cadres. The claim of their notional seniority has been examined and factual position has been kept informed that the question of notional promotion as contended in the higher cadre did not arise and their claim does not deserve any merit as per rules vide reference 6th read above. They challenged the said procgs in O.A. No. 243/97 before the APAT. Sri G.Somi Reddy , Deputy Tahsildar (Retd) has filed appeal before the E.O. Secretary to Govt., for retrospective seniority. On examination, the appeal was disposed informing the position vide reference 7th read above. Against this communication, the above applicants have filed O.A.No. 6835/97 seeking retrospective seniority.

6. The Hon'ble APAT by it's common order dt. 25.06.1999 allowed the OAs filed by the applicants with the following directions.

> " In the result, the impugned Govt. Memo No.1304/CS.II/2/97-1,F,CS &CA(CS.II) Dept, dt. 11.04.1997 is set aside. The respondents are directed to fix the applicants at the appropriate place in the seniority list taking their entire length of service into consideration in view of the judgment of t he Apex Court in S.K. Mathur Vs Union of India (1998) 4 SCC 134 and to consider their cases for promotion to the post of District Supply Officer/ Grain Purchasing Officer in accordance with rules and extend all consequential benefits.

7. All the O.As are disposed of accordingly with the aforesaid directions. No. costs.

8. Aggrieved by the Tribunal Orders, the Department filed W.P. No. 17529/99 and (2) WPs in the High Court. The respondents have also filed WP No. 13529/99 seeking implementation of common judgment given by the APAT dt. 25.06.1999 in OA No. 6835/97, 243/97 and 6107/96. The Hon'ble High Court rejected the WP No. 17529/99 filed by the Department and allowed the W.P. No. 13529/99 on 18.08.99 holding as follows:

> "in the circumstances, we do not find any merit Writ Petitions filed by the Government i.e. WP Nos. 17529/99. 17527/99 17100/ 99 and

accordingly they are dismissed. In view of the dismissal of the above Writ Petitions, there is no exception for the Government than to implement the decision rendered by the Tribunal in O.A. No. 6107 of 1996, O.A. No. 243/1997 and OA No. 6835/1997,d t. 25.06.1999 within two months. Accordingly, WP No. 13529 of 1999 is allowed.

9. The learned Government Pleader Services-I submits that the petitioners did not pass the departmental tests. Since the said contention was not raised before the Tribunal, we do not allow the same to be raised before this Court in these writ petitions. However, while effecting the promotions, the Chief Rationing Officer can look into this aspect. We make it clear that as the third petitioner Mr Somi Reddy is due to retire on 31.08.1999, he will get notional seniority and consequential benefits.

10 In pursuant to the above Hon,ble High Court orders, dt: 18.08.1999.The Chief Rationing Officer, Hyderabad issued seniority list for the category of Senior Assistants vide reference 10th read above. In the category of Deputy Tahsildar, Assistant Supply Officer and District Supply Officer cadre , the CCS being competent authority issued Procgs No. AdmnI(1)/831/96, dt. 29.03.2000 that " following the revision of seniority in the Senior Assistant cadre , further action of revision has to be under taken as per the Statutory Rules in the Gazetted cadre . As the mentioned, the individuals passed the departmental tests only during May and December 1989, the notional seniority in the first level Gazetted category is not permissible irrespective of their qualifications in the lower cadre.

11. The petitioners have challenged the said speaking order in W.P. No. 9600/2000 and in CC No. 1899/99. Hon'ble High Court in it's order dt. 10.09.2001 in W.P. No. 9600/2000 and CC No. 1899/99 has passed orders that the petitioners promotion, seniority etc., have to be reckoned without reference to their passing of departmental tests, as they are not liable to pass any such departmental tests.

12. As the orders of the Hon'ble High Court in W.P. No. 9600/2000 in CC No. 1899/99, dt. 10.09.2001 is contrary to the stand of the department putforth before the Tribunal and High Court, a review petition against the orders of Hon'ble High Court, Hyderabad in W.P. No. 9600/2000, dt. 10.09.2001 has been filed by the Department before the High Court, Hyderabad on 21.11.2003. Certain affected senior Deputy Tahsildars have also filed Review Petition against the orders dt. 10.09.2001 in W.P. No. 9600/2000. Aggrieved by the orders of APAT in O.A.No. 6107/96, 243/97 and 6835/97, dt. 25.06.1999, Sri T.Shanthi Raju and (3) others have also filed a W.P No. 19431/2003.Hon'ble High Court has dismissed the Review petition filed by the Department for review of the orders dt. 10.09.2001in WP No. 9600/2000. The Hon'ble High Court in it's orders dt. 10.09..2001 has ordered that "the Petitioner's seniority in Office of the Chief Rationing Officer's Office shall be reckoned only from the date of their deputation CRO's Office i.e. from 29.11.78, 12.01.79 and 02.01.76 respectively ". The WP No. 19431/2003 challenging the orders of Hon'ble APAT in in O.A.No. 6107/96, 243/97 and 6835/97, dt. 25.06.1999 filed by Sri T.Shanthi Raju and (3) others dismissed by the Hon'ble High Court vide orders dt. 21.11.2003.

13. The Hon'ble High Court vide it's order dt. 14.10.2004 in CC No. 911/2004 and Rev. WP MP No. 6141/2004 in WP No.9600/2000 has directed to initiate and complete all formalities including issuing notices to the persons likely to be affected if the petitioner's seniority in the category of Deputy Tahsildar and higher cadres revised, and shall pass final and reasoned orders, within the time granted. We are constrained to issue this direction in an application for review of the judgment in W.P. No. 9600/200, for the reason that on one pretext or the other, sometimes by the official respondents and now by the review petitioners, the fruits of the successful litigation of the petitioners had been delayed and smothered. In the light of the above discussion the CC No. 911 of 2004 filed by the petitioners be posted for hearing on 20.12.2004. In the result, the review petition is dismissed.

14. Aggrieved by the orders of Hon'ble High Court, dt:10.09.2001 in WP.No.9600/2000, CS Department had filed SLP before Hon'ble Supreme Court of India and against the dismissal of review petition filed by the department in REV. WPMP No. 31656 of 2003 in W.P.No.9600 of 2000 on 21.11.2003.

15. In pursuant to the orders of Hon'ble APAT dt. 25.06.1999 in O. A. No. 6107/96, 243/97 and 6835/97 and Judgment of Hon'ble High Court dt. 18.08.99 in W.P. Nos 17529/99, 17527/99, 17100/99 and 13529/99, the CRO, Hyd issued orders revising the seniority of Senior Assistants of CRO's Unit, Hyderabad. As such, as per orders of Hon'ble High Court, dt. 14.10.2004, the seniority to be revised in Deputy Tahsildar , Assistant Supply Officer and District Supply Officer cadre by issuing notices to the persons likely to be affected and to pass the final orders as per rules. Therefore, a Show Cause Notice was issued vide reference Admn.I(I)/831/96, dt 04.12.2004 to the 131 affected parties duly proposing the dates for appointment to Deputy Tahsildar (CS), Assistant Supply Officer and District Supply Officer cadre as detailed below.

Name of the individual	Notional seniority to be given in DT cadre	Notional seniority to be given in ASO cadre	Notional seniority to be given in DSO cadre
Sri G.Somi Reddy	21.11.1980 placing above Sri S.Sudershan	04.11.1989 placing above Sri M.Bharat Reddy	08.04.1993 placing above Sri M.Bharat Reddy
Sri P. Prem Kishore	07.06,1982 placing above Sri P.Prakash	04.11.1989 placing above Sri M.Bharat Reddy	08.04.1993 placing above Sri M.Bharat Reddy
Sri K.Rammohan Rao	07.06,1982 placing above Sri P.Prakash	04.11.1989 placing above Sri M.Bharat Reddy	08.04.1993 placing above Sri M.Bharat Reddy

16. The SLP No 270-271 of 2005 was came up for hearing on 6.4.2005 and Hon'ble Supreme Court of India after hearing the matter directed that " List the applications along with the main matter. Meanwhile, contempt proceedings before the High Court are stayed." Accordingly, the Hon'ble High Court of AP ordered that " no further orders are necessary in the contempt case. Accordingly, the contempt case is closed. However, it is made clear that the petitioners may renew the matter after disposal of the above SLP by the Supreme Court, if they so chose".

17. Supreme Court of India vide orders dt. 23.04.2005 has disposed the Civil Appeal Nos 752-753 of 2008 with CA No. 690/2008 with the following order.

> " We are informed by the learned counsel for the parties to the lis that the respondents-herein have already retired from service. Since the respondents have already retired from service, in our opinion, nothing needs to said about the orders passed by the High Court in this batch of appeals. Accordingly, we dispose of the Civil Appeals. No costs.
>
> It is needless to say that the appellants will implement the orders passed by the High Court.
> It is also clarified that the orders passed by the High Court shall not be treated as a precedent in any other case.
>
> Ordered accordingly.

18. Sri K.Rammohan Rao, while working as Deputy Tahsildar (CS), retired on 31.12.2000 in Krishna District now residuary State of AP. .

19. In the circumstance as per the directions of Hon'ble High Court and Supreme Court the Government of Telangana have already issued orders giving notional seniority in respect of Sri G.Somi Reddy & Sri Prem Kishore, Deputy Tahsildhars (CS), (Retired),Since they are allotted to Telangana State vide G.O.Rt.No.90,Consumer Affairs, Food & Civil Supplies Department,Dt:31/08/2015. Sri K.Rammohan Rao, Dy.Tahsildhar(CS), (Retired), has been allotted to Andhra Pradesh State, Government have to be given notional seniority to the individual as detailed in the show cause Notice,Dt:09/12/2014 as the explanation submitted by the affected persons are not convincing as per order of Hon'ble High Court and Supreme Court of India.

20. Government, after careful examination of the matter is here by accord notional seniority in Deputy Tahsildar (CS) Cadre to Sri K.Rammohan Rao w.e.f 07-06-1982 placing above Sri.P.Prakash and notional seniority to be given in Assistant Supply Officer cader w.e.f.,04-11-1989 placing above Sri M.Bharath Reddy and notional seniority to be given in District Supply Officer cadre w.e.f.,08-04-1993 placing above Sri M. Bharat Reddy.

21. The Commissioner Civil Supplies, A.P, Hyderabad shall take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

R. KARIKAL VALAVEN
EX-OFFICIO SECRETARY TO GOVERNMENT (FAC)

To
Sri K.Rammohan Rao, Deputy Tahsildar (Retd) [through
CCS,A.P., Hyderabad
Copy to the Commissioner Civil Supplies, A.P, Hyderabad
Stock file/Spare

// FORWARDED BY ORDER //

SECTION OFFICER